

The following is a statement from the Attorney General:

For several years now, the Office of the Prosecutor at the International Criminal Court (ICC) has been conducting a preliminary examination further to a request submitted by the Palestinians. The principled legal position of the State of Israel, which is not a party to the ICC, is that the Court lacks jurisdiction in relation to Israel and that any Palestinian actions with respect to the Court are legally invalid. A year ago, I announced that I was considering publishing a reasoned opinion regarding the Court's lack of jurisdiction to deal with the Palestinian request, with a view to making public Israel's position in this regard as presented in various legal and diplomatic fora. In light of the Prosecutor's recent statement, in the context of her annual report on preliminary examinations (5 December 2019), noting her intention to reach a decision in the matter, I consider it appropriate to publish the paper at this time. As set out in detail in the opinion, the Court manifestly lacks jurisdiction for the following reasons:

- Only sovereign states can delegate criminal jurisdiction to the Court. The Palestinian Authority clearly does not meet the criteria for statehood under international law and the Court's founding Statute.
- The claim that the Palestinians have purported to join the Rome Statute does not meet, nor can it replace, the substantive test requiring criminal jurisdiction to have been delegated to the Court by a sovereign state with a defined territory.
- Israel has valid legal claims over the same territory in relation to which the Palestinians are seeking to submit to the Court's jurisdiction. Israel and the Palestinians agreed, with the support of the international community, to resolve their dispute over the future status of this territory in the framework of negotiations.
- By approaching the ICC, the Palestinians are seeking to breach the framework agreed to by the parties and to push the Court to determine political issues that should be resolved by negotiations, and not by criminal proceedings. The Court was not established for such purposes, nor does it have the authority or capacity to determine such matters especially in the absence of the consent of the parties.

- The paper published today sets out my opinion solely with respect to the Court's lack of jurisdiction. Subject to future developments, I may consider addressing additional issues related to this matter.

The paper is the product of a collaborative inter-agency effort, including personnel from the Ministry of Justice, the Ministry of Foreign Affairs, and the National Security Council, headed by the Deputy Attorney General for International Law, Dr. Roy Schondorf, and the Legal Advisor of the Ministry of Foreign Affairs, Dr. Tal Becker; in full coordination with Israel's senior political echelon.